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EXAMINER

ROSEN, NICHOLAS D

ART UNIT PAPER NUMBER

3625

DATE MAILED: 01/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/736,554

Applicant(s)

PHAN, CUNG NGOC

Examiner

Nicholas D. Rosen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claims 1-8 have been examined.

Specification

The disclosure is objected to because of the following informalities: On page 10, line 6, "In FIG. 2, numeral 300" should be "In FIG. 3, numeral 300" in order to be compatible with the drawings.

Appropriate correction is required.

Claim Objections

Claims 1-5 are objected to because of the following informalities: In claim 1, clauses (a) and (b) should end with semicolons; clause (c) should end with a semicolon followed by the word "and"; and clause (d) should end with a period. Appropriate correction is required.

Moreover, it is probably unnecessary to tack the word "means" onto everything. For example, it may be appropriate to write "communicating means" or "means for communicating", but if Applicant wishes to recite a communication network, there does not appear to be any reason to call it "a communication network means".

Claim 2 is objected to because of the following informalities: The claim is ungrammatical. Examiner suggests that in the third line, "host system means; and" be corrected to "host system, wherein:". Claim 2 begins "A communication network means as claimed in claim 1," but claim 1 begins "A computer implemented system" of which

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the communication network is one element, so claim 2 should recite "The computer implemented system of claim 1, wherein said communication network. . .". More importantly, the phrase, "a variety of protocols such as tcp/ip, http, https, etc." is unclear, because it does not unambiguously specify whether the protocols need include tcp/ip, http, and https, and does not make clear what is covered by the "etc.". Appropriate correction is required.

Claim 3 is objected to because of the following informalities: Claim 3 begins "An in-store system means, as claimed in claim 1," but claim 1 begins "A computer implemented system" of which the in-store system is one element, so claim 3 should recite "The computer implemented system of claim 1, wherein said in-store system further includes: . . ." Also, it would be clearer to have a colon after "including" or "includes", and begin the first recited element, the "point-of-sale means", on a new, indented line. Appropriate correction is required.

Claim 4 is objected to because of the following informalities: Claim 4 begins "A subscriber system means as claimed in claim 1," but claim 1 begins "A computer implemented system" of which the subscriber system is one element, so claim 4 should recite "The computer implemented system of claim 1, wherein said subscriber system further includes: . . ." Also, it would be clearer to have a colon after "including" or "includes", and begin the first recited element, the "browser means", on a new, indented line. There is insufficient proper antecedent basis for "said merchant" in the final line of claim 4; although there are previous references to "merchant inventory data", these do not specify one particular merchant. Appropriate correction is required.

Claim 5 is objected to because of the following informalities: A claim should be only one sentence long; claim 5 has four sentences ending in periods. There are other informalities: e.g., claim 5 begins "A host system means as claimed in claim 1," but claim 1 begins "A computer implemented system" of which the host system is one element, so claim 5 should recite "The computer implemented system of claim 1, wherein said host system. . .". Some of the language in claim 5 should be eliminated, or at least transferred from the body of the claim to the preamble, since it boasts of the advantages of the system, rather than reciting the elements of the system, e.g., "thus reducing the amount of time and money spent by the consumer in searching for the desired item." Also, Applicant should be warned that "thus allowing the in-store system's network address to be dynamically assigned" is not an unambiguous statement that the in-store system's network address is dynamically assigned, and probably does not necessitate finding that element in the prior art to reject the claim. Appropriate correction is required.

Claims 6-8 are objected to because of the following informalities: Clauses (b), (c), (d), (g), (h), and (i) of claim 6 should end in semicolons. In the last line of claim 6, "response" should be "a response". Appropriate correction is required.

Claim 8 is objected to because of the following informalities: A claim should be only one sentence long; claim 8 has four sentences ending in periods. Some of the language in claim 8 should be eliminated, or at least transferred from the body of the claim to the preamble, since it boasts of the advantages of the method, rather than reciting the steps of the method, e.g., "thus reducing the amount of time and money

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spent by the consumer in searching for the desired item.” Also, Applicant should be warned that “thus allowing the in-store system’s network address to be dynamically assigned” is not an unambiguous statement that the in-store system’s network address is dynamically assigned, and probably does not necessitate finding that element in the prior art to reject the claim. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-5

Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marmor et al. (U.S. Patent Application Publication 2002/0062310) in view of Clare (U.S. Patent 5,745,036). As per claim 1, Marmor discloses a computer-implemented system for distributing in real-time inventory data acquired from point-of-sale systems at any

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one of a plurality of participating retail outlets, comprising: (a) a communication network for sending and receiving data (paragraphs 0003 and 0004); (b) an in-store system for processing, storing, and communicating data (paragraphs 0010, 0012, 0041, and 0042); and (c) a subscriber system for forming and transmitting requests for data (paragraphs 0010, 0012, 0029, 0030, 0041, and 0042). Marmor does not expressly disclose a host system for processing, storing, and communicating data between a plurality of subscriber systems and a plurality of in-store systems, although each of the plurality of peer-to-peer computers involved in Marmor's system can be considered to be such a host. However, single host systems are well known, as taught by Clare (column 3, lines 47-67, especially 62-65; column 6, lines 1-18; Figures 1 and 4). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the system comprise a host system, for the obvious advantage of making inventory data for all stores in a chain or category available at a single point.

As per claim 3, Marmor discloses an in-store system, including a point-of-sale system used to process sales transactions and perform inventory control (paragraphs 10, 12, and 86), and discloses transmitting and receiving data through the communication network, apparently in real time (paragraphs 2, 3, 4, 10, 12, and 86). Marmor does not quite expressly disclose a memory database used to store merchant identification data, sales transaction data, and inventory control data, but Clare teaches a memory database used to store merchant identification data, sales transaction data, and inventory control data (column 3, lines 47-67, especially 62-65; column 6, lines 1-

18; Figures 1 and 4). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the system include a memory database used to store merchant identification data, sales transaction data, and inventory control data, for the stated advantage of tracking and updating inventory.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marmor and Clare as applied to claim 1 above, and further in view of the Microsoft Press Computer Dictionary. Marmor discloses a communication network means which transmits and receives data between a plurality of in-store systems, a plurality of subscriber systems, and a plurality of host system (while Clare teaches one host) as set forth above). Marmor discloses the communication network (the Internet) using a variety of protocols, specifically including http (paragraph 0033) and https (paragraphs 0065, 0066, and 0067). Marmor does not expressly disclose the use of tcp/ip, but the Microsoft Press Computer Dictionary teaches that the Internet supports tcp/ip (definition of TCP/IP, page 462). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the communication network support tcp/ip, for the obvious advantage of being able to use the Internet, as disclosed by Marmor.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marmor and Clare as applied to claim 1 above, and further in view of Call (U.S. Patent 6,418,441). Marmor does not disclose a browser used by a consumer to view, search, request, receive, and access merchant inventory data, except as something which there

is no need to rely on any more with his invention (paragraph 11); however, Call teaches a browser used by a consumer to view, search, request, receive, and access merchant inventory data (Figure 6; column 22, line 51, through column 23, line 2; column 27, line 36, through column 28, line 8). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to include a browser used by a consumer to view, search, request, receive, and access merchant inventory data, for the obvious advantage of enabling consumers to access the data by standard, widely available means.

Marmor does not expressly disclose a single virtual stores server used to search, request, and access merchant inventory data, although each of the plurality of peer-to-peer computers involved in Marmor's system can be considered to be such a server (see paragraph 5). However, Call teaches a server used to search, request, and access merchant inventory data (see Abstract, for example) in real time using a communication network and process online sales of goods or services offered by sale by merchants (Figure 6; column 22, line 51, through column 23, line 2; column 27, line 36, through column 28, line 8). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the apparatus include a virtual stores server used to search, request, receive, and access merchant inventory data in real-time using the communication network, and to process online sales of goods or services offered for sale by a merchant, for the obvious advantage of making inventory data and products for sale conveniently available to consumers using standard, widely available technology.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marmor and Clare as applied to claim 1 above, and further in view of Mhoon (U.S. Patent 6,477,578). Marmor discloses a plurality of host systems, and Clare a single host system, as set forth above in the rejection of claim 1; but Clare teaches a database used to store merchant identification data, sales transaction data, and inventory control data (column 3, lines 47-67, especially 62-65; column 6, lines 1-18; Figures 1 and 4), as set forth above in the rejection of claim 3. Hence, these features would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention, for the reasons set forth above.

Marmor discloses storing merchant network address data on the plurality of quasi-host systems (paragraph 40). Marmor discloses host system communicator means used to receive and transmit data in real-time between a plurality of merchants and a plurality of consumers, using the communication network (paragraphs 3, 4, 5, 10, 12, 29, 30, and 41). Marmor discloses data distributors to process data requests from said subscriber systems paragraphs 3, 4, 5, 10, 12, 29, 30, and 41).

Marmor discloses the host systems storing the network addresses of participating in-store systems, and communicating with the in-store systems on the subscriber systems' behalf, eliminating the need for subscriber systems to know the in-store system's network address in advance of making a request (paragraph 40). It is debatable whether Marmor can be read as shielding the in-store systems from direct access by subscriber systems, but it is well known to shield systems from direct access by external users by using firewalls, intermediate servers, etc., as taught by Mhoon

(column 7, lines 36-45). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to shield the in-store systems from direct access by subscriber systems, for the obvious advantage of protecting sensitive and valuable data from being read by unauthorized persons, and preventing in-store systems from being taken over by hackers.

Marmor discloses that realtime inventory data is sent from the in-store system to the host system and forwarded to the subscriber system or stored for later access by a consumer using the subscriber system (paragraphs 3, 4, 5, 10, 12, 29, 30, 40, and 41), such that the consumer receives accurate and current inventory amounts from merchants' places of business (paragraphs 86, 87, and 88).

Marmor discloses that the consumer is reasonably assured that the merchant has the desired item currently in its inventory and ready for sale, thus reducing the amount of time and money spent by the consumer in searching for the desired item and providing the merchant with a ready and willing consumer to purchase the desired good or service (paragraphs 86, 87, and 88).

Claims 6-8

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marmor et al. (U.S. Patent Application Publication 2002/0062310) in view of Clare (U.S. Patent 5,745,036). As per claim 6, Marmor discloses a method for acquiring, managing, and distributing real-time inventory data on a communication network, the method comprising the steps of: (a) providing a means to access current inventory data from an in-store system (paragraphs 10, 12, 41, and 42), merchant identification data

(paragraphs 86 and 91) and merchant network address data (paragraph 40); (b) providing a communication network to transmit data (paragraphs 3, 4, 10, and 12); (c) providing an in-store system means that transmits and receives data using said communication network (paragraphs 10, 12, 41, and 42); (d) providing host systems that transmit and receive data using said communication network and store data on databases (paragraphs 40 and 41). Marmor does not disclose a single host system receiving data and storing it on a host system database but single host systems with databases are well known, as taught by Clare (column 3, lines 47-67, especially 62-65; column 6, lines 1-18; Figures 1 and 4). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the system comprise a single host system, for the obvious advantage of making inventory data for all stores in a chain or category available at a single point.

Marmor does not quite expressly disclose (e) transmitting current inventory data and merchant identification data from said in-store system to said host system, but Clare teaches doing so (column 3, lines 47-67, especially 62-65; column 6, lines 1-18; Figures 1 and 4). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to transmit current inventory data and merchant identification data from said in-store system to said host system, for the stated advantage of tracking and updating inventory. Marmor discloses storing merchant network address data on the plurality of quasi-host systems (paragraph 40), implying the transmission of such data.

Marmor discloses (f) storing current inventory data, merchant identification data, and merchant network address data using host system databases (paragraphs 40, 41, 42, 85, 86, 87, and 88), and discloses the use of indexes, implying indexing of the data (paragraphs 30 and 65). Marmor discloses (g) providing a data distributor that processes requests for inventory data (paragraphs 40, 41, 86, 87, and 88); (h) providing a subscriber system that requests inventory data (Abstract; paragraphs 10 and 13; Figure 8); (i) receiving a request from a subscriber system for inventory data (Abstract; paragraphs 10, 13, 43, 44, 45, and 48); (j) processing the request from said subscriber system means using said indexed and stored inventory data, merchant identification data, and merchant network address data (Abstract; paragraphs 10, 12, 40, 41, 42, 65, 85, 86, 87, and 88); and (k) transmitting a response to said subscriber system (paragraphs 13, 86, 90, and 91).

As per claim 7, Marmor discloses storing and indexing a merchant's current network address in said host system database (paragraphs 40 and 65); and using this address to initiate communication between said host system and said in-store system to retrieve inventory data when a request is made by said subscriber system (paragraphs 40, 41, and 42).

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marmor and Clare as applied to claim 6 above, and further in view of Mhoon (U.S. Patent 6,477,578). Marmor discloses establishing a communications connection from said in-store system to said host system (Figure 8; paragraphs 10, 12, 40, 41, and 42). Marmor does not expressly providing a triggering means that causes said in-store

system to transmit current inventory data and merchant identification data to a host system, but Clare teaches doing so (column 3, lines 47-67, especially 62-65; column 6, lines 1-18; Figures 1 and 4). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to provide a triggering means that causes said in-store system to transmit current inventory data and merchant identification data to a host system, for the obvious advantage of making the data available for searching at the host system.

Clare does not teach transmitting merchant network address data to a host system, but the possession of merchant network address data by a host system (paragraphs 40, 41, and 42) indicates that the data has been transmitted at some point. Marmor discloses storing transmitted current inventory data, merchant identification data, and merchant address using host system databases (paragraphs 40, 41, 42, 87, 88, 89, and 90).

Marmor discloses the host systems storing the network addresses of participating in-store systems, and communicating with the in-store systems on the subscriber systems' behalf, eliminating the need for subscriber systems to know the in-store system's network address in advance of making a request (paragraph 40). It is debatable whether Marmor can be read as shielding the in-store systems from direct access by subscriber systems, but it is well known to shield systems from direct access by external users by using firewalls, intermediate servers, etc., as taught by Mhoon (column 7, lines 36-45). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to shield the in-store

systems from direct access by subscriber systems, for the obvious advantage of protecting sensitive and valuable data from being read by unauthorized persons, and preventing in-store systems from being taken over by hackers.

Marmor discloses that realtime inventory data is sent from the in-store system to the host system and forwarded to the subscriber system or stored for later access by a consumer using the subscriber system (paragraphs 3, 4, 5, 10, 12, 29, 30, 40, and 41), such that the consumer receives accurate and current inventory amounts from merchants' places of business (paragraphs 86, 87, and 88).

Marmor discloses that the consumer is reasonably assured that the merchant has the desired item currently in its inventory and ready for sale, thus reducing the amount of time and money spent by the consumer in searching for the desired item and providing the merchant with a ready and willing consumer to purchase the desired good or service (paragraphs 86, 87, and 88).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dorr (U.S. Patent 4,530,067) discloses a restaurant management information and control method and apparatus. Haluska (U.S. Patent 5,638,519) discloses an electronic method and system for controlling and tracking information related to business transactions. Johnson et al. (U.S. Patent 6,023,683) disclose an electronic sourcing system and method. Freeny, Jr. (U.S. Patent 6,076,071) discloses an automated synchronous product pricing and advertising

system. Ettl et al. (U.S. Patent 6,078,900) disclose methods for estimating stock levels in production-distribution networks with inventory control. Purcell (U.S. Patent 6,081,789) discloses an automated and independently accessible inventory information exchange system. Peterson et al. (U.S. Patent 6,324,522) disclose an electronic information network for inventory control and transfer. Hall et al. (U.S. Patent 6,401,076) disclose a wide area inventory control system. Aggarwal et al. (U.S. Patent 6,415,318) disclose an inter-enterprise messaging system using bridgehead servers.

Ranganath et al. (U.S. Patent Application Publication 2001/0037245) disclose a point of sale device, e-commerce system, and method and apparatus for order processing and inventory management. Hollander et al. (U.S. Patent Application Publication 2002/0023004) disclose an online store management system. Khan (U.S. Patent Application Publication 2002/0032611) discloses methods and systems for sourcing bill of material and data handling configurations software. Rothman et al. (U.S. Patent Application Publication 2002/0072984) disclose a method and apparatus for the distribution and sale of a branded product.

Izawa et al. (Japanese Published Patent Application 11-154280 A) disclose an inventory control system. Humble (WO 99/67730 A1) discloses a method and system for in-store marketing.

The anonymous article, "Web Wise: the Internet Offers Many Benefits to Smart Retailers," providing real-time access to warehouse inventory over the Internet. The anonymous article, "firstsource.com's Board of Directors Adds mark Briggs to its Roster," discloses a Web site allowing customers to search, compare, price, and buy

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products and services directly from multiple distributors' inventories. The anonymous article, "Elan Hotel Modern Chooses TENonline Technology to Facilitate Internet Initiative," discloses a real-time reservation and inventory management system for a hotel's Web site.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 703-305-0753. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins, can be reached on 703-308-1344. (Wynn Coggins is currently on assignment elsewhere in the Patent Office; the examiner's acting supervisor, Jeffrey Smith, can be reached at 703-308-3588.) The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Non-official/draft communications can be faxed to the examiner at 703-746-5574.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Nicholas D. Rosen
NICHOLAS D. ROSEN
PRIMARY EXAMINER

January 20, 2004